

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

KRISTIN HARDY,

Plaintiff,

v.

R. MORENO, et al.,

Defendants.

Case No. 1:21-cv-00327-JLT-EPG (PC)

ORDER DENYING PLAINTIFF'S  
MOTION FOR LEAVE TO AMEND,  
WITHOUT PREJUDICE

(ECF No. 34)

Kristin Hardy ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On November 16, 2021, the Court found that Plaintiff's First Amended Complaint ("FAC") should proceed on Plaintiff's unreasonable search and seizure claims against defendants Valencia, Moreno, Chavez, Dohs, and Ceballos, based on Plaintiff's allegations that after he was subjected to a full body scan, he was immediately subjected to an additional strip search without justification. (ECF No. 22). All other claims and defendants were dismissed. (Id.).

On January 26, 2022, Plaintiff filed a motion for leave to amend, along with a Proposed Second Amended Complaint. (ECF Nos. 34 & 35). Plaintiff states that he is moving to amend because his complaint is "now defective" due to the Court's order allowing this case to proceed

1 only on his unreasonable search and seizure claims against defendants Valencia, Moreno,  
2 Chavez, Dohs, and Ceballos.

3 The Court will deny Plaintiff's motion for leave to amend, without prejudice to Plaintiff  
4 renewing the motion. Plaintiff does not explain why his FAC is now defective or identify any  
5 changes that the Proposed Second Amended Complaint makes to the FAC. Moreover,  
6 Plaintiff's Proposed Second Amended Complaint, including exhibits, is 39 pages. If Plaintiff  
7 chooses to re-file his motion for leave to amend, he should explain the changes that the  
8 Proposed Second Amended Complaint makes to the FAC.

9 The Court notes that, to the extent Plaintiff is attempting to amend his FAC to remove  
10 claims and/or defendants that the Court did not allow to proceed, Plaintiff does not need to do  
11 so. Plaintiff does not need to amend his complaint to reflect that claims and defendants have  
12 been dismissed by the Court.

13 Accordingly, based on the foregoing, Plaintiff's motion for leave to amend is denied,  
14 without prejudice to Plaintiff renewing the motion. If Plaintiff renews the motion, he must  
15 include an explanation regarding the changes that the Proposed Second Amended Complaint  
16 makes to the FAC.

17 IT IS SO ORDERED.  
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19 Dated: January 27, 2022

20 /s/ Eric P. Grogan  
UNITED STATES MAGISTRATE JUDGE  
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